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APR 04 2002

OFFICE OF PETITIONS

In re Application of	:	
Carlos Correa	:	
Application No. 10/042,695	:	DECISION DISMISSING
Filed: 1 April, 2002	:	PETITION
For: A Computer Monitor Utility	:	
Assembly	:	

This is a decision on the petition filed by facsimile on 1 April, 2002, and styled under 37 CFR 1.182 which is treated as a petition under 37 CFR 1.10(e) to accord the above-identified application a filing date of 14 February, 2001.

The petition is **dismissed**.

Petitioner alleges that the application was deposited in "Express Mail" service with the United States Postal Service (USPS) via an Express Mail drop box on 14 February, 2001. No copy of the Express Mail label, petitioner states, was ever received from the USPS, however Petitioner further states that the USPS has been unable to provide confirmation regarding this Express Mail shipment.

37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d) (3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The present petition does not establish that the application was, in fact, deposited in Express Mail service on the requested date. In the absence of the Express Mail label showing the date in or other evidence from the USPS, petitioners have not presented sufficient proof to establish, to the satisfaction of the Commissioner, that the application papers were deposited in Express Mail service on 14 February, 2001.

In future filings, petitioner is advised that, in order to preserve the benefits of filing by "Express Mail Post Office to Addressee Service" in accordance with 37 CFR 1.10, correspondence sent by Express mail to the USPTO should be deposited directly with a USPS employee at the post office. Petitioner should request that the USPS postal clerk complete the "date-in" on the Express Mail label and return a copy of the label to petitioner.

As the USPS deposit date cannot be determined for the above-identified correspondence, the application papers will be

accorded the Office receipt date of 1 April, 2001.¹ The application papers received by facsimile on 1 April, 2001, will be processed and examined with a filing date of 1 April, 2001.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for processing with a filing date of 1 April, 2001.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.


Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹See 37 CFR 1.10(a).